

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ANTHONY BROOKS,

Plaintiff,

v.

NEVADA DEPARTMENT OF
CORRECTIONS ACCOUNTING
DEPARTMENT SUPERVISOR,

Defendant.

Case No. 3:20-cv-00183-MMD-CLB

ORDER

On April 29, 2020, this Court ordered Plaintiff Anthony Brooks to file a fully complete application to proceed *in forma pauperis* or pay the full filing fee of \$400 no later than May 28, 2020. (ECF No. 6 at 2.) The May 28, 2020, deadline has now expired, and Plaintiff has not filed an application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with

1 court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming
2 dismissal for lack of prosecution and failure to comply with local rules).

3 In determining whether to dismiss an action for lack of prosecution, failure to obey
4 a court order, or failure to comply with local rules, the court must consider several factors:
5 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic alternatives. See
8 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
9 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

10 Here, the Court finds that the first two factors, the public's interest in expeditiously
11 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
12 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
13 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
14 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
15 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
16 disposition of cases on their merits—is greatly outweighed by the factors in favor of
17 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey the
18 court's order will result in dismissal satisfies the "consideration of alternatives"
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
20 at 1424. The Court's order requiring Plaintiff to file an application to proceed *in forma*
21 *pauperis* or pay the full filing fee no later than May 28, 2020, expressly stated: "IT IS
22 FURTHER ORDERED that if Plaintiff does not timely comply with this order, dismissal of
23 this action may result." (ECF No. 6 at 2.) Thus, Plaintiff had adequate warning that
24 dismissal would result from his noncompliance with the Court's order to file an application
25 to proceed *in forma pauperis* or pay the full filing fee no later than May 28, 2020.

26 It is therefore ordered that this action is dismissed without prejudice based on
27 Plaintiff's failure to file an application to proceed *in forma pauperis* or pay the full filing fee
28 in compliance with this Court's order dated April 29, 2020.

1 It is further ordered that the Clerk of Court enter judgment in accordance with this
2 order and close this case.

3 DATED THIS 8th day of June 2020.

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6 MIRANDA M. DU
7 CHIEF UNITED STATES DISTRICT JUDGE
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